Software Rights Archive, LLC v. Google Inc. et al Doc. 210 Att. 1

EXHIBIT 2

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SOMTAI TROY CHAROENAK)
and MARIANNA ROSEN,)
individually and on behalf) Civil Action C-05-00037
of all others similarly)
situated,)
)
Plaintiffs,)
)
vs.)
)
APPLE COMPUTER, INC.,)
)
Defendant.)
---------------------------*

Wednesday, January 24, 2007
New York, New York
10:17 a.m.

Videotaped Deposition of MARIANNA ROSEN, taken by Defendant, pursuant to Notice, held at the offices of Jones Day, 222 East 41st Street, New York, New York, on Wednesday, January 24, 2007 at 10:17 a.m. before Josephine H. Fassett, a Certified Shorthand Reporter and Notary Public of the State of New York.

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A P P E A R A N C E S :

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A L S O P R E S E N T :

THOMAS DELVECCHIO, Videographer

I think since I had iTunes I don't remember buying them.

Q What American record stores did you used to go to?

A I think only Tower Records.

Q And which Tower?

A Where?

Q Yeah.

A On which street? You know, the one in East Village I think. Not far from Strand's Bookstore. We used to go out and go to Strand's

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Bookstore and buy some books and go to Tower Record and buy some records but that was a long time ago.

Q When was the last time you were at Tower?

A I really don't remember.

Q Okay.

A But a while ago. Is it even open?

Q I don't know.

A I think they got out of business. I think they're out of business, the last I heard somewhere they are.

Q Do you ever buy physical CD's online like at Amazon.com?

A I definitely, if I do buy it, I don't think I bought a CD -- with music again, you mean music, right?

Q Right.

A I don't think I lately. I might have bought five years ago but not the next, the last couple.

Q How about videos, have you bought any videos, physical videos online like through Amazon or another Web site?

A I bought, definitely I bought the

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DVD's, the video DVD's from this Russian Web site called Kniga. com with Russian movies in it, that I still, you know, a couple times a year I do that. I don't remember ever buying an American movie online. It's usually a compulsive purchase where I would see the movie I really like and buy it in the store.

Q Okay. The third iPod you bought, this is the second one for yourself but the third you bought.

A Okay.

Q That was a video iPod?

A Uh-hum.

Q Yes?

A I'm sorry. Yes.

Q And did you buy that in part because of the video feature?

A I like the video feature of course but I bought it mostly because I already had an iTunes library that I could use with it.

Q But my question is: Did you buy it in part because of the video aspect?

A I bought it in part because of the video aspect but I think there are others that have video access.

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Q Did you shop around to see if there were others with videos, other mp3 players with video capability?

A I did not shop around because I already had my iTunes library. *

Q One of the reasons you wanted a new mp3 player was so you could watch your videos on the player, correct?

A No.

Q Do you watch the videos on your new iPod?

A The screen is too small.

Q So you've never, never watched a video on your new iPod; is that correct?

A I mean not consciously. I never sit down and watch them. If my son watches a little cartoon, I might look in. It's too small a screen, no.

Q Do you have any videos loaded on your new iPod?

A Yes, because when it syncs to the iTunes, it automatically loads the videos, although in a funny way. Like, for example, the Desperate Housewives somehow was not there because I don't really care because I don't watch videos

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on iPod.

Q Does your son watch cartoons on the iPod?

A He is not allowed, but he does. They're there, I mean, I don't even know how to delete them. So like, for example, I loaded, I wanted to know what this thing, all this noise about this group Strokes, this New York City group Strokes and I bought a video, you know, how do you say it, video clip from iTunes for that music, and it's a little explicit, but somehow it's in my iPod. I mean not somehow, I know that it should be in my iPod, I synched it, and my son saw it, so I'm not nuts about him watching it.

Q Okay. So he does watch videos on your iPod?

A Sometimes.

Q When you bought the newest iPod, did you think to yourself that you were paying too much for it?

A Surely of course, I thought it was expensive, I think all iPods are very expensive.

Q When you bought the first iPod, did you think it was expensive?

A I thought it was expensive.

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Q But you went ahead and voluntarily bought it?

A I'm Russian, we derive pleasure from spending money. I'm joking.

I thought it was expensive but I wanted something that wouldn't skip the music, so I went and bought it, I thought I'm going to monetize it over years.

Q You didn't think it was so expensive that you wanted to take the time to shop around